

TITLE II
CHAPTER 1
BUILDING ADMINISTRATION CODE

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SECTION 1

- II-1-1.01 **ADOPTION OF THE BUILDING ADMINISTRATION CODE.** The Milpitas Building Administration Code is hereby adopted. There is one copy of said code in the office of the Chief Building Official for use and examination by the public.
- II-1-1.02 **TITLE.** These regulations shall be known as the “Milpitas Building Administration Code,” may be cited as such and will be referred to herein as “this Chapter.”

SECTION 2

- II-1-2.01 **PURPOSE** The purpose of this Chapter is to provide for the administration and enforcement of building codes (also referred to as the Technical Codes) and municipal ordinances within the Milpitas Municipal Code, Title II, adopted by this jurisdiction.

	Adopted by Milpitas Municipal Code, Title II, Technical Code Chapter (as follows) _____
<u>Technical Code</u>	
California Building Code	3
California Housing Code	4
California Mechanical Code	5
California Electrical Code	6
California Plumbing Code	7
Uniform Swimming Pool, Spa & Hot Tub Code	10
Abatement of Dangerous Building Code	12
California Historical Building Code	14

All Supplements and Appendices and Standards Adopted for each of said Codes by said Title II and Chapters Thereof (which shall be known as the “technical codes”) except as the specific provisions of any of said technical codes shall expressly declare this Chapter or any part thereof to be inapplicable.

SECTION 3 APPLICATION TO EXISTING BUILDINGS AND BUILDING SERVICE EQUIPMENT

- II-1-3.01 **General:** Buildings, structures and their building service equipment to which additions, alterations or repairs are made shall comply with all the requirements of the technical codes for new facilities, except as specifically provided in this section.
- II-1-3.02 **Additions, Alterations or Repairs:** Additions, alterations or repairs may be made to any building or its building service equipment without requiring the existing building or its building service equipment to comply with all the requirements of the technical codes, provided the addition, alteration or repair conforms to that required for a new building or building service equipment.

Additions or alterations shall not be made to an existing building or building service equipment which will cause the existing building or building service equipment to be in violation of any of the provisions of the technical codes nor shall such additions or alterations cause the existing building or building service equipment to become unsafe. An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or building service equipment to become structurally unsafe or overloaded; will not provide adequate egress in compliance with the provisions of the Building Code or will obstruct existing exits; will create a fire hazard; will reduce required fire resistance; will cause building service equipment to become overloaded or exceed their rated capacities; will create a health hazard or will otherwise create conditions dangerous to human life. Any building so altered, which involves a change in use or occupancy, shall not exceed the height, number of stories and area permitted by the Building Code for new buildings. Any building plus new additions shall not exceed the height, number of stories and area specified by the Building Code for new buildings.

Additions or alterations shall not be made to an existing building or structure when such existing building or structure is not in full compliance with the provisions of the Building Code except when such addition or alteration will result in the existing building or structure being no more hazardous based on life safety, fire safety and sanitation, than before such additions or alterations are undertaken.

EXCEPTION: Alterations of existing structural elements, or additions of new structural elements, which are not required by Section II-1-3.03 and which are initiated for the purpose of increasing the lateral-force-resisting strength or stiffness of an existing structure need not be designed for forces conforming to these regulations provided that an engineering analysis is submitted to show that:

1. The capacity of existing structural elements required to resist forces is not reduced;
2. The lateral loading to required existing structural elements is not increased beyond their capacity;
3. New structural elements are detailed and connected to the existing structural elements as required by these regulations;
4. New or relocated nonstructural elements are detailed and connected to existing or new structural elements as required by these regulations;
5. An unsafe condition as defined in Section II-1-3.02 is not created by such alterations or additions.

Alterations or repairs to an existing building or structure which are non structural and do not adversely affect any structural member or any part of the building or structure having required fire resistance may be made with the same materials of which the building or structure is constructed, subject to approval by the Chief Building Official. The installation or replacement of glass shall be as required for new installations.

Minor additions, alterations and repairs to existing building service equipment installations may be made in accordance with the technical code in effect at the time the original installation was made, subject to approval of the Chief Building Official, and provided such additions, alterations and repairs will not cause the existing building service equipment to become unsafe, insanitary or overloaded.

II-1-3.03 **Existing Installations:** Building service equipment lawfully in existence at the time of the adoption of the technical codes may have their use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and a hazard to life, health or property has not been created by such building service equipment.

II-1-3.04 **Existing Occupancy:** Buildings in existence at the time of the adoption of the Building Code may have their existing use or occupancy continued if the use or occupancy was legal at the time of the adoption of the Building Code, and provided continued use is not dangerous to life, health and safety.

Any change in the use or occupancy of any existing building or structure shall comply with the provisions of Section II-1-25.02 of this Chapter and Section 3405 of the Building Code.

II-1-3.05 **Maintenance:** All buildings, structures and building service equipment, existing and new, and all parts thereof shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the technical codes shall be maintained in conformance with the technical code under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and their building service equipment. To determine compliance with this subsection, the Chief Building Official may cause any structure to be reinspected.

II-1-3.06 **Moved Buildings:** Buildings, structures and their building service equipment moved into or within this jurisdiction shall comply with the provisions of the technical codes for new buildings or structures and their building service equipment.

II-1-3.07 **Temporary Structures:** Temporary structures such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for the protection of the public around and in conjunction with construction work may be erected by special permit from the Chief Building Official for a limited period of time. Such buildings or structures erected under a special permit. need not comply with the type of construction or fire-resistive time periods required by the Building Code. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

II-1-3.08 **Historic Buildings:** Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building structure, or its building service equipment may be made without conforming to the requirements of the technical codes when authorized by the Chief Building Official, provided:

1. The building or structure has been designated by official action of the legally constituted authority of this jurisdiction as having special historical or architectural significance.
2. Any unsafe conditions as described in this Title are corrected.
3. The restored building or structure and its building service equipment will be no more hazardous based on life safety, fire safety and sanitation than the existing building.
4. The restored or altered building conforms to minimum requirements of the California Historical Building Code

SECTION 4 DEFINITIONS

II-1-4.01 **General:** For the purpose of this Chapter, certain terms, phrases, words and their derivatives shall be construed as specified in this section.

1. ADDITION is an extension or increase in floor area or height of a building or structure.
2. ALTER or ALTERATION is any change or modification in construction or building service equipment.
3. APPROVED, as to materials, types of construction, equipment and system, refers to approval by the Chief Building Official as the result of investigation and tests conducted by him, or by reason of accepted principles or tests by recognized authorities, technical or scientific organizations.
4. APPROVED AGENCY is an established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when such agency has been approved by the Chief Building Official.
5. BUILDING is any structure used or intended for supporting or sheltering any use or occupancy.
6. BUILDING CODE is the California Building Code promulgated by the International Conference of Building Officials and the State of California Building Standards Commission, as adopted by this jurisdiction.
7. BUILDING, EXISTING is a building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

8. CHIEF BUILDING OFFICIAL is the officer or other designated authority charged with the administration and enforcement of this code, or his duly authorized representative.
9. BUILDING SERVICE EQUIPMENT refers to the plumbing, mechanical, electrical and elevator equipment including piping, wiring, fixtures and other accessories which provide sanitation, lighting, heating, ventilation, cooling, refrigeration, fire-fighting and transportation facilities essential to the occupancy of the building or structure for its intended and designated use.
10. ABATEMENT OF DANGEROUS BUILDINGS CODE is the Uniform Code for the Abatement of Dangerous Buildings promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.
11. ELECTRICAL CODE is the California Electrical Code promulgated by the National Fire Protection Association and the State of California Building Standards Commission, as adopted by this jurisdiction.
12. JURISDICTION, as used in this Chapter, is the City of Milpitas.
13. LISTED and LISTING are terms referring to equipment and materials which are shown in a list published by an approved testing agency, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of current productions of listed equipment or materials. The published list shall state that the material or equipment complies with approved national recognized codes, standards or tests and has been tested or evaluated and found suitable for use in a specified manner.
14. MECHANICAL CODE is the California Mechanical Code promulgated by the International Conference of Building Officials and the State of California Building Standards Commission, as adopted by this jurisdiction.
15. OCCUPANCY is the purpose for which a building, or part thereof, is used or intended to be used.
16. OWNER is any person, agent, firm or corporation having a legal or equitable interest in the property.
17. PERMIT is an official document or certificate issued by the Chief Building Official authorizing performance of a specified activity.
18. PERSON is a natural person, heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

19. PLUMBING CODE is the California Plumbing Code promulgated by the International Association of Plumbing and Mechanical Officials and the State of California Building Standards Commission, as adopted by this jurisdiction.
20. REPAIR is the reconstruction or renewal of any part of an existing building, structure or building service equipment for the purpose of its maintenance.
21. SHALL, as used in this code, is mandatory.
22. STRUCTURAL OBSERVATION, means the visual observation of the structural system, including but not limited to, the elements and connections at significant construction stages, and the completed structure for general conformance to the approved plans and specifications at significant construction stages and at completion of the structural system. Structural observation does not include or waive the responsibility for the inspections required by Sections II-1-21 and II-1-22.
23. STRUCTURE is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
24. TECHNICAL CODES refer to those codes adopted by this jurisdiction containing the provisions for design, construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures and building service equipment as herein defined. The term refers to the following codes as adopted and amended by the City of Milpitas:

<u>Technical Code</u>		Adopted by Milpitas Municipal Code, Title II, Technical Code Chapter (as follows) _____
California Building Code		3
California Housing Code		4
California Mechanical Code		5
California Electrical Code		6
California Plumbing Code		7
Uniform Swimming Pool, Spa & Hot Tub Code		10
Uniform Abatement of Dangerous Building Code		12
California Historical Building Code		14

All Supplements and Appendices and Standards
 Adopted for each of said Codes by said Title II and
 Chapters Thereof

25. U.B.C. STANDARDS is the Uniform Building Code Standards published in Volume 3 of the Uniform Building Code promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.
26. VALUATION or VALUE, as applied to a building and its building service equipment, shall be the estimated cost to replace the building and its building service equipment in kind, based on current replacement costs.

SECTION 5 CONFLICTING PROVISIONS

- II-1-5.01 When conflicting provisions or requirements occur between this code, the technical codes and other codes or laws, the most restrictive shall govern.

When conflicts occur between the technical codes, those provisions providing the greater safety to life shall govern. In other conflicts where sanitation, life safety or fire safety are not involved, the most restrictive provisions shall govern.

Where in any specific case different sections of the technical codes specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

When conflicts occur between specific provisions of this Chapter and any administrative provisions in the technical code which is then applicable within this jurisdiction, those provisions of this Chapter shall govern, unless (1) the technical code (or the ordinance adopting the same) shall expressly declare that this Chapter or any part thereof is inapplicable, or (2) in the case of the Swimming Pool, Spa and Hot Tub Code, there is an express procedural provision inconsistent with the provisions of this Chapter.

SECTION 6 ALTERNATE MATERIALS, METHOD OF DESIGN AND METHODS OF CONSTRUCTION

- II-1-6.01 The provisions of the technical codes are not intended to prevent the use of any material, method of design or method of construction not specifically prescribed by the technical codes, provided an alternate has been approved and its use authorized by the Chief Building Official.

The Chief Building Official may approve any alternate, provided he finds the proposed design is satisfactory and complies with the provisions of the technical codes and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the technical codes in suitability, strength, effectiveness, fire resistance, durability, safety, sanitation and provides access to the disabled in accordance with state standards.

The Chief Building Official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of an action

granting approval of an alternate shall be recorded and entered in the files of the code enforcement agency.

SECTION 7 MODIFICATIONS

- II-1-7.01 Whenever there are practical difficulties involved in carrying out the provisions of the technical codes, the Chief Building Official may grant modifications for individual cases, provided he shall first find that a special individual reason makes the strict letter of the technical codes impractical and the modification is in conformity with the intent and purpose of the technical codes, and that such modification does not lessen health, life safety, fire safety requirements, any degree of structural integrity or access for the disabled. The details of actions granting modifications shall be recorded and entered in the files of the code enforcement agency.

SECTION 8 TESTS

- II-1-8.01 Whenever there is insufficient evidence of compliance with the provisions of the technical codes or evidence that materials or construction do not conform to the requirements of the technical codes, the Chief Building Official may require tests as evidence of compliance to be made at no expense to this jurisdiction.

Test methods shall be as specified by the technical codes or by other recognized test standards. In the absence of recognized and accepted test methods, the Chief Building Official shall determine test procedures.

Tests shall be made by an agency approved by the Chief Building Official. Reports of such tests shall be retained by the Chief Building Official for the period required for the retention of public records.

SECTION 9 ESTABLISHMENT OF THE DIVISION

- II-1-9.01 There is hereby established in the City of Milpitas the "Building Inspection Division" which shall be under the jurisdiction of the Assistant City Manager.

SECTION 10 AUTHORITY

- II-1-10.01 **Creation of Enforcement Agency.** There is hereby established in this jurisdiction a code enforcement agency which shall be under the administrative and operational control of the Chief Building Official.
- II-1-10.02 **General.** Whenever the term of title "administrative authority," "responsible official," "building official," "chief inspector," "code enforcement officer," or other similar designation is used herein or in any of the technical codes, it shall be construed to mean the Chief Building Official designated by the appointing authority of this jurisdiction.

SECTION 11 POWERS AND DUTIES OF CHIEF BUILDING OFFICIAL

- II-1-11.01 **General:** The Chief Building Official is hereby authorized and directed to enforce all the provisions of this Title, and the referenced technical codes. For such purposes, the Chief Building Official shall have the powers of a law enforcement officer.

The Chief Building Official shall have the power to render interpretations of this Title and the referenced technical codes, and to adopt and enforce rules and regulations supplemental to this code as he may deem necessary in order to clarify the application of the provisions of this Title. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this Title.

- II-1-11.02 **Deputies:** In accordance with prescribed procedures and with the approval of the appointing authority, the Chief Building Official may appoint related technical officers and inspectors and other employees as shall be authorized from time to time. The Chief Building Official may deputize such inspectors or employees as may be necessary to carry out the functions of the code enforcement agency.

- II-1-11.03 **Right of Entry:** Whenever necessary to make an inspection to enforce any of the provisions of this Title, and the technical codes or whenever the Chief Building Official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Chief Building Official or his authorized representative may enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the Chief Building Official by this Title, provided that, except in cases of imminent danger to life or property, if such building or premises be occupied, he shall first present property credentials and request and receive permission for entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request and receive permission for entry. If such entry is refused, the Chief Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Chief Building Official or his authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Chief Building Official or his authorized representative for the purpose of inspection and examination pursuant to this code.

- II-1-11.04 **Stop Orders:** Whenever any work is being done contrary to the provisions of this Title, the technical codes or other pertinent laws or ordinances implemented through the enforcement of this title, the Chief Building Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, or by posting said notice at main entry or other conspicuous location of the

structure, and any such persons shall forthwith stop such work until authorized by the Chief Building Official to proceed with the work.

- II-1-11.05 **Occupancy Violations:** Whenever any building or structure or building service equipment therein regulated by this Title and the technical codes is being used contrary to the provisions of this Title, the Chief Building Official may order such use discontinued and the structure, or portion thereof, vacated by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Chief Building Official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this Title.

SECTION 12 UNSAFE BUILDINGS, STRUCTURES OR BUILDING SERVICE EQUIPMENT

- II-1-12.01 All building or structures regulated by this Title and the technical codes which are structurally inadequate or have inadequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe buildings.

Building service equipment regulated by such codes, which constitute a fire, electrical or health hazard, or an unsanitary condition, or is otherwise dangerous to human life is, for the purpose of this section, unsafe. Any use of buildings, structures or building service equipment constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use.

Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in the Building Code are hereby designated as unsafe building appendages.

Unsafe buildings, structures or appendages and building service equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Uniform Code for the Abatement of Dangerous Buildings or such alternate procedures as may be adopted by this jurisdiction. As an alternative, the Chief Building Official or other employee or official of this jurisdiction as designated by the governing body may institute any other appropriate action to prevent, restrain, correct or abate the violation.

- II-1-12.02 **Notice of Correction or Abatement of Unsafe Structures:** If an inspection shows a building or structure or portion thereof to be "Unsafe" as defined herein, the Chief Building Official shall give the owner of said building or structure written notice stating the defects thereof. Said notice may order the correction or abatement thereof by demolition, closing or repair within ninety days of the date said notice is given or such additional time as the Chief Building Official may allow. If, in the opinion of the Chief Building Official, such conditions can be corrected or abated by repair, the notice shall

state the repair required. Notice hereunder may also be given to any mortgagee or beneficiary under any deed or trust of record.

II-1-12.03 **Posting Notice of Hazardous Building:** Every building which the Chief Building Official causes to be vacated because of an immediate danger or hazard may be posted at each entrance with a notice which states: "Do Not Enter: Unsafe to Occupy: Building Inspection Department, City of Milpitas." Such notice may remain posted until the required repairs, improvements, demolition or removal are completed. Such notice shall not be removed without written permission of the Chief Building Official, and all persons shall forthwith vacate said building and no person shall enter the building except for the purpose of making the required repairs, improvements, demolition or removal of the building.

II-1-12.04 **Authority to Disconnect Utilities:** The Chief Building Official or his authorized representative shall have the authority to disconnect any utility service or energy supplied to the building, structure or building service equipment therein regulated by this Title or the technical codes in case of emergency where necessary to eliminate an immediate hazard to life or property. The Chief Building Official shall whenever possible notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or building service equipment, in writing, of such disconnection immediately thereafter.

This Title shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the City of Milpitas be held to have assumed any such liability by reason of the inspections authorized by this Title or any certificates of inspection issued under this Title.

II-1-12.05 **Authority to Condemn Building Service Equipment:** Whenever the Chief Building Official ascertains that any building service equipment regulated in the technical codes has become hazardous to life, health, or property, or has become unsanitary, he shall order in writing that such equipment either be removed or restored to a safe or sanitary condition, as appropriate. The written notice itself shall fix a time limit for compliance with such order. Defective building service equipment shall not be maintained after receiving such notice.

When such equipment or installation is to be disconnected, a written notice of such disconnection and causes therefor will be given within 24 hours to the serving utility, the owner and occupant of such building, structure or premises.

When any building service equipment is maintained in violation of the technical codes and in violation of any notice issued pursuant to the provisions of this section, the Chief Building Official shall institute any appropriate action to prevent, restrain, correct or abate the violation.

- II-1-12.06 **Connection After Order to Disconnect:** No person shall make connections from any energy, fuel or power supply nor supply energy or fuel to any building service equipment which has been disconnected or ordered to be disconnected by the Chief Building Official or the use of which has been ordered to be discontinued by the Chief Building Official until the Chief Building Official authorizes the reconnection and use of such equipment.
- II-1-12.07 **Withholding Permit:** No Building or Occupancy Permit shall be issued for any building or structure unless and until:
1. all conditions imposed thereon or in connection with any development or subdivision of which it is a part (and which affect said building or structure) by the Milpitas Planning Commission or Milpitas City Council have been complied with;
 2. said building or structure and any development or subdivision of which it is a part shall be in compliance with all ordinances and statutes affecting said building or structure, development or subdivision.
- II-1-12.08 **Liability:** Without limitation to the generality of any provision of the Milpitas Municipal Code, the duties imposed by this Title upon the Chief Building Official, or his authorized representatives are discretionary and not mandatory. Neither said Official or his representatives, shall render himself personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of his duties.
- The City of Milpitas, its officers or employees shall not be held to have assumed any liability by reason of the inspections authorized by such codes or approvals issued under such codes.
- This title shall not be construed to relieve or lessen the responsibility of any person owning, operating or controlling any building or structure per any damages to persons or property caused by defects, nor shall the City of Milpitas be held as assuming any liability by reasons of the inspections authorized by this Chapter or any certificates of inspections issued under this Chapter.
- II-1-12.09 **Hearing:** Any aggrieved person may request an informal hearing before the Chief Building Official, or his designee, with respect to any action taken or to be taken under the provisions of Section 12 of this Chapter. Said request shall be in writing and said hearing shall be held within 2 working days of receipt of the request provided a request for a hearing shall not stay the operation of the Chief Building Official's order unless the Chief Building Official shall so order.

SECTION 13 APPEALS

- II-1-13.01 Appeals may be had under this Chapter, pursuant to the provisions of Section 5 of the Standard Procedures Chapter of the Milpitas Municipal Code. An appeal shall stay all proceedings in furtherance of the act or decision appealed unless the Chief Building Official whose act is appealed shall certify in writing that a stay would in his opinion cause peril to life or property. Said certificate shall contain a detailed statement of the facts out of which said peril arises and of the reasons for said opinion.

SECTION 14 VIOLATIONS

- II-1-14.01 It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building structure, building service equipment, or cause or permit the same to be done in violation of this Title and the technical codes.

SECTION 15 NUISANCE

- II-1-15.01 The erection, construction, enlarging, equipping, use, height, altering, repairing, moving, removing, conversing, demolishing, improving, occupying or maintaining of buildings or structures or the installation, alteration or repair of electrical wiring, devices, appliances, equipment, systems, or facilities, or the installation, alteration or repair of plumbing or drainage lines, equipment, systems or facilities, or the use, design, installation, alteration, repair and replacement of heating and comfort cooling equipment contrary to the provisions of this Title is unlawful and shall be and the same is hereby declared to be a public nuisance.

SECTION 16 REMEDIES

- II-1-16.01 The remedies and penalties provided for by this Chapter shall be cumulative, and not exclusive, and shall be in addition to such other remedies or penalties as are provided.

SECTION 17 PERMITS

- II-1-17.01 **Permits Required:** Except as specified in Subsection (.03) of this section, no building, structure or building service equipment regulated by this Title and the technical code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate, appropriate permit for each building, structure or building service equipment has first been obtained from the Chief Building Official.
- II-1-17.02 **Exempted Work:** A permit shall not be required for the types of work in each of the separate classes of permits as listed below. Exemption from the permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in violation of the provisions of the technical codes or any other laws or ordinances of this jurisdiction.

Building Permits: A Building Permit shall not be required for the following:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the projected floor area does not exceed 120 square feet and provided such structures are not located within required yard setback areas.
2. Wood fences not over 6 feet high or masonry fences not over 4 feet high.
3. Movable cases, counters, storage shelves and partitions not over 5 feet 9 inches high.
4. Retaining walls which are not over 4 feet in height measured from grade to the top of the wall, unless supporting a surcharge or impound flammable liquids.
5. Water tanks supported directly upon grade if the capacity does not exceed 5000 gallons and the ratio of height to diameter or width does not exceed two to one.
6. Platforms, walks and driveways, not more than 30 inches above grade and not over any basement or story below.
7. Painting, papering and similar finish work.
8. Temporary motion picture, television and theatre stage sets and scenery.
9. Window awnings supported by an exterior wall of Group R, Division 3, and Group U Occupancies when projecting not more than 54 inches.
10. Prefabricated swimming pools which do not exceed 24 inches in height accessory to a Group R, Division 3 Occupancy in which the pool walls are entirely above the adjacent grade and if the capacity does not exceed 5000 gallons provided that barriers around such swimming pools per Chapter II-9 of this code must nevertheless be installed

Unless otherwise exempted by this Title, separate plumbing, electrical and mechanical permits are required for the above exempted work.

Plumbing Permits: A plumbing permit shall not be required for the following:

1. The stopping of leaks in drains, soil, waste or vent pipes, provided, however, that should any concealed trap, drainpipe, soil, waste or vent pipe become defective and it becomes necessary to remove and replace the same with new material, the same shall be considered as new work and a permit shall be procured and inspection made as provided in this Title.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, nor for the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

II-1-17.05 **Electrical Permits:** An Electrical Permit shall not be required for the following:

1. Portable motors or other portable appliances energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle when that cord or cable is permitted by the Electrical Code.
2. Repair or replacement of motors, transformers and controls within fixed approved appliances of the same type and rating in the same location.
3. Temporary decorative lighting.
4. Repair or replacement of current-carrying parts of any switch, contactor or control device.
5. Reinstallation of attachment plug receptacles, but not the outlets therefor.
6. Replacement of any overcurrent device less than 1200 amps of the same capacity in the same location.
7. Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube systems.
8. Taping joints.
9. Removal of electrical wiring.
10. Temporary wiring for experimental purposes in suitable experimental laboratories.
11. The wiring for temporary theatre, motion picture or television stage sets.
12. Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.
13. Low-energy power, control and signal circuits of Classes II and III as defined in the Electrical Code.
14. A permit shall not be required for the installation, alteration or repair of electrical wiring, apparatus or equipment or the generation, transmission, distribution or metering of electrical energy or in the operation of signals or the transmission of

intelligence by a public or private utility in the exercise of its function as a serving utility.

II-1-17.06 **Mechanical Permits:** A Mechanical Permit shall not be required for the following excepting that a permit is required for vertical and structural support and anchoring of permanent equipment and overhead pipes:

1. Any portable heating appliance.
2. Any portable ventilating equipment.
3. Any portable cooling unit.
4. Any portable evaporative cooler.
5. Any closed system of steam, hot or chilled water piping within any heating or cooling equipment regulated by the Mechanical Code.
6. Replacement of any component part of assembly of an appliance which does not alter its original approval and complies with other applicable requirements of the technical codes.
7. Any refrigerating equipment which is part of the equipment for which a permit has been issued pursuant to the requirements of the technical codes.
8. Any unit refrigerating system as defined in the Mechanical Code.

SECTION 18 APPLICATION FOR PERMIT

II-1-18.01 **Application:** To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the code enforcement agency for that purpose. Every such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use or occupancy for which the proposed work is intended.
4. Be accompanied by plans, diagrams, computations and specifications and other data as required in Subsection (.04) of this section.

5. State the valuation of any new building or structure or any addition, remodeling or alteration to an existing building.
6. Be signed by the permittee, or the applicant's authorized agent.
7. Give such other data and information as may be required by the Chief Building Official.

II-1-18.02 **Submittal Documents:** Plans, specifications, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs and other data shall constitute the submittal documents and shall be submitted for each application in one or more sets as determined by the Chief Building Official. When such plans are not prepared by an architect or engineer, the building official may require the applicant submitting such plans or other data to demonstrate that state law does not require that the plans be prepared by a licensed architect or engineer. The building official may require plans, computations and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such even if not required by state law.

EXCEPTION:

The Chief Building Official may waive the submission of plans, calculations, construction inspection requirements, and other data, if it found that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this Title.

II-1-18.03 **Information on Plans and Specifications:** Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of the technical codes and all relevant laws, ordinances, rules and regulations.

Plans for buildings of other than Groups R, Division 3 and Group M Occupancies shall indicate how required structural and fire-resistive integrity will be maintained where penetrations will be made for electrical, mechanical, plumbing and communication conduits, pipes and similar systems.

II-1-18.04 **Architect or Engineer of Record: General.** When it is required that documents be prepared by an architect or engineer, the Chief Building Official may require the owner to engage and designate on the building permit application an architect or engineer who shall act as the architect or engineer of record. If the circumstances require, the owner may designate a substitute architect or engineer of record who shall perform all of the duties required of the original architect or engineer of record. The building official shall be notified in writing by the owner if the architect or engineer of record is changed or is unable to continue to perform the duties.

The architect or engineer of record shall be responsible for reviewing and coordinating all submittal documents prepared by others, including deferred submittal items, for compatibility with the design of the building.

- II-1-18.05 **Deferred Submittals.** For the purposes of this section, deferred submittals are defined as those portions of the design which are not submitted at the time of the application and which are to be submitted to the building official within a specified period.

Deferral of any submittal items shall have prior approval of the Chief Building Official. The architect or engineer of record shall list the deferred submittals on the plans and shall submit the deferred submittal documents for review by the Chief Building Official.

Submittal documents for deferred submittal items shall be submitted to the architect or engineer of record who shall review them and forward them to the Chief Building Official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The deferred submittal items shall not be installed until their design and submittal documents have been approved by the Chief Building Official.

- II-1-18.06 **Inspection and Observation Program.** When special inspection is required by Section II-1-22, the architect or engineer of record shall prepare an inspection program which shall be submitted to the Chief Building Official for approval prior to issuance of the building permit. The inspection program shall designate the portions of the work to have special inspection, the name or names of the individuals or firms who are to perform the special inspections and indicate the duties of the special inspectors.

The special inspector shall be employed by the owner, the engineer or architect of record, or an agent of the owner, but not the contractor or any other person responsible for the work.

When structural observation is required by Section II-1-23, the inspection program shall name the individuals or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur.

The inspection program shall include samples of inspection reports and provide time limits for submission of reports.

SECTION 19 PERMIT ISSUANCE

- II-1-19.01 **Issuance:** The application, plans, specifications, computations and other data, filed by an applicant for permit shall be reviewed by the Chief Building Official. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the Chief Building Official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this Title and the technical codes

and other pertinent laws and ordinances, and that the fees specified have been paid, he shall issue a permit therefor to the applicant.

When the Chief Building Official issues the permit where plans are required, he shall endorse in writing or stamp the plans and specifications 'APPROVED.' Such approved plans and specifications shall not be changed, modified or altered without authorizations from the Chief Building Official, and all work regulated by this Title shall be done in accordance with approved plans.

The Chief Building Official may issue a permit for the construction of part of a building, structure or building service equipment before the entire plans and specifications for the whole building, structure or building service equipment have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of the technical codes. The holder of such permit shall proceed at his own risk without assurance that the permit for the entire building, structure or building service will be granted.

II-1-19.02 **Retention of Plans:** One set of approved plans and computations shall be retained by the Chief Building Official for a period of not less than 90 days from the date of completion of work covered therein; and one set of approved plans shall be returned to the applicant and shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

II-1-19.03 **Validity of Permit:** The issuance of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Title, or the technical codes, or any other ordinance of the jurisdiction. Permit presuming to give authority to violate or cancel the provisions of the technical codes shall not be valid.

The issuance of a permit based upon plans, specifications and other data shall not prevent the Chief Building Official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this Title or of any other ordinances of this jurisdiction.

II-1-19.04 **Expiration:** Every permit issued by the Chief Building Official under the provisions of this Title and the technical codes shall expire by limitation and become null and void, if the building or work authorized by such permit is not commenced or an inspection made within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced a new permit shall be first obtained so to do, and the fee therefor shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded 360 days. If the suspension or

abandonment exceeds 360 days, the permittee shall pay a new full permit fee for the issuance of a permit.

Any permittee holding an unexpired permit may apply for an extension of the time within which he may commence work under that permit when he is unable to commence work within the time required by this section for good and satisfactory reasons. The Chief Building Official may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

II-1-19.05 **Suspension or Revocation:** The Chief Building Official may, in writing, suspend or revoke a permit issued under the provisions of this Title whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this Title.

II-1-19.06 **Refusal to Issue Permits Due to Deficiency:** Failure on the part of any permittee to correct any defect, error or deficiency in any work within ten (10) days after notification thereof, or within such further reasonable time as may, upon request, be prescribed, shall be sufficient cause for refusal to issue any further permits to such permittee until such corrections have been made, inspected and approved. (Ord. 65.11, 10/3/61)

SECTION 20 FEES

II-1-20.01 **Permit Fees:** The fee for each permit shall be as set forth by resolution of the City Council. The Chief Building Official will update the building valuation data on January 1, and on July 1, of each year.

The determination of value or valuation under any of the provisions of this Title shall be made by the Chief Building Official. The value to be used in computing the Building Permit and building plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment.

II-1-20.02 **Plan Review Fees:** When a plan or other data is required to be submitted by Section (II-1-18.02), a plan review fee shall be paid at the time of submitting plans and specifications for review. Said plan review fee shall be as set forth by resolution of the City Council.

When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items as defined in Section II-1-18.05, an additional plan review fee may be charged at the rate set by resolution of the City Council.

II-1-20.03 **Expiration of Plan Review:** Applications for which no permit is issued within 180 days following the date of application shall expire by limitation and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Chief Building Official.

The Chief Building Official may extend the time for action by the applicant for a period not exceeding 180 days on written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. An application shall not be extended more than once. An application shall not be extended if this title or any other pertinent laws or ordinances have been amended subsequent to the date of application. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

II-1-20.04 **Investigation Fees - Work Without a Permit:** Whenever any work for which a permit is required by this Title has been commenced without first obtaining said permit, a special investigation will be made before a permit may be issued for such work.

An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this Title. The minimum investigation fee shall be the same as the minimum fee. The payment of such investigation fee shall not exempt any applicant from compliance with all other provisions of this title or the technical codes nor from any penalty prescribed by law.

II-1-20.05 **Fee Refunds:** The Chief Building Official may authorize the refunding of any fee paid hereunder when there are two permits for the same work (double permitting).

The Chief Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this title.

The Chief Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan reviewing is done.

The Chief Building Official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 1 year after the date of fee payment.

SECTION 21 INSPECTIONS

II-1-21.01 **General:** All construction work for which a permit is required shall be subject to inspection by the Chief Building Official and all such construction or work shall remain accessible and exposed for inspection purposes until approved by the Chief Building Official. In addition, certain types of construction shall have continuous inspection as specified in Section II-1-22.

Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this Title or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this Title or of other ordinances of the jurisdiction shall not be valid.

It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Chief Building Official nor this jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

A survey of the lot may be required by the Chief Building Official to verify that the structure is located in accordance with the approved plans.

II-1-21.02 **Inspection Record Card:** Work requiring a permit shall not be commenced until the permit holder or his agent shall have posted or otherwise made available an inspection record card such as to allow the Chief Building Official conveniently to make the required entries thereon regarding inspection of the work. This card shall be maintained available by the permit holder until final approval has been granted by the Chief Building Official.

II-1-21.03 **Inspection Requests:** It shall be the duty of the person doing the work authorized by a permit to notify the Chief Building Official that such work is ready for inspection. The Chief Building Official may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be in writing or by telephone at the option of the Chief Building Official.

It shall be the duty of the person requesting any inspections required either by this code or the technical codes to provide access to and means for inspection of the work.

II-1-21.04 **Approval Required:** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Chief Building Official. The Chief Building Official, upon notification, shall make the requested inspections and shall either indicate that they portion of the construction is satisfactory as completed or shall notify the permit holder or his agent wherein the same fails to comply with any of the technical codes or any other ordinances of the City of Milpitas. Any portions which do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Chief Building Official.

There shall be a final inspection and approval of all buildings and structures when completed and ready for occupancy and use.

II-1-21.05 **Required Building Inspections:** Reinforcing steel or structural framework of any part of any building or structure shall not be covered or concealed without first obtaining the approval of the Chief Building Official. Protection of joints and penetrations in fire-resistive assemblies shall not be concealed from view until inspected and approved.

The Chief Building Official, upon notification, shall make the following inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his agent wherein the same fails to comply with this title.

1. **FOUNDATION INSPECTION:** Inspection to be made after excavation for footings are complete and required reinforcing steel and inserts are in place. For concrete foundations, any required forms shall be in place prior to inspection. All materials for the foundation shall be on the job, except concrete ready-mixed in accordance with nationally recognized standards need not be on the job. Where the foundation is to be constructed of approved treated wood, additional inspections may be required by the Chief Building Official.
2. **CONCRETE SLAB OR UNDER-FLOOR INSPECTION:** Inspection to be made after all in-slab or under-floor building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including sub-floor.
3. **FRAME INSPECTION:** Inspection to be made after the roof, all framing, fire blocking and bracing are in place and all pipes, chimneys and vents are complete and the rough electrical, plumbing, and heating wires, pipes, and ducts are approved.
4. **LATH AND/OR WALLBOARD INSPECTION:** Inspection to be made after all lath and wallboard, interior and exterior, is in place, but before any plastering is applied or before wallboard joints and fasteners are taped and finished.
5. **FINAL INSPECTION:** Inspection will be made after finish grading and the building is completed and ready for occupancy.

II-1-21.06 **Required Building Service Equipment Inspections:** All building service equipment for which a permit is required by this Title code shall be inspected by the Chief Building Official. No portion of any building service equipment intended to be concealed by any permanent portion of the building shall be concealed until inspected and approved. When the installation of any building service equipment is complete, an additional and final inspection shall be made. Building service equipment regulated by the technical codes shall not be connected to the water, fuel or power supply or sewer system until authorized by the Chief Building Official.

II-1-21.07 **Operation of Building Service Equipment:** The requirements of this section shall not be considered to prohibit the operation of any building service equipment installed to replace existing building service equipment serving an occupied portion of the building in the event a request for inspection of such building service equipment has been filed with the Chief Building Official not more than 48 hours after such replacement work is

completed, and before any portions of such building service equipment is concealed by any permanent portion of the building.

II-1-21.08 **Other Inspections:** In addition to the called inspections specified above, the Chief Building Official may make or require other inspections of any construction work to ascertain compliance with the provisions of this Title or technical codes and other laws which are enforced by the code enforcement agency.

II-1-21.09 **Reinspections:** A reinspection fee may be assessed as set by resolution of the City Council for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

This subsection is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of the technical codes, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection.

Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Chief Building Official.

To obtain a reinspection, the applicant shall file an application therefore in writing upon a form furnished for that purpose, and pay the reinspection fee in accordance with the fee schedule adopted by this jurisdiction.

In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

SECTION 22 SPECIAL INSPECTIONS

II-1-22.01 In addition to the inspections required by Section II-1-21, the owner or the engineer or architect of record acting as the owner's agent shall employ one or more special inspectors who shall provide inspections during construction on the following types of work:

EXCEPTION: The Chief Building Official may waive the requirement for the employment of a special inspector if the construction is of a minor nature.

1. **CONCRETE:** During the taking of test specimens and placing of all reinforced concrete, II-1-22.01(12) for shotcrete.

EXCEPTIONS:

- a. Concrete for foundations conforming to the minimum requirements of Table No. 18-A of the Building Code for Group R, Division 3 or Group U, Division 1 Occupancies, provided the Chief Building Official finds that a special hazard does not exist.
 - b. For foundation concrete, other than cast-in-place drilled piles or caissons, where the structural design is based on a f'_c no greater than 2500 pounds per square inch (psi).
 - c. Nonstructural slabs on grade, including prestressed slabs on grade when effective prestress in concrete is less than 150 pounds per square inch.
 - d. Site work concrete fully supported on earth and concrete where no special hazard exists.
2. **BOLTS INSTALLED IN CONCRETE:** Prior to and during the placement of bolts and concrete around bolts when stress increases permitted by Footnote No. 5 of Table 19-D or Section 1924.2 of the Uniform Building Code are utilized.
 3. **SPECIAL MOMENT-RESISTING CONCRETE FRAME:** As required by Section 1701.5 Item 3, of the Uniform Building Code.
 4. **REINFORCING STEEL AND PRESTRESSING TENDONS:**
 - a. During all stressing and grouting of tendons in prestressed concrete.
 - b. During placing of reinforcing steel and prestressing tendons for concrete required to have special inspection by Item a.

EXCEPTION:

The special inspector need not be present continuously during placing of reinforcing steel and prestressing tendons, provided inspection for conformance with the approved plans, prior to the closing of forms or the delivery of concrete to the job site, has been accomplished.

5. **STRUCTURAL WELDING:**
 - A. **General.** During the welding of any member of connection which is designed to resist loads and forces required by this code.

EXCEPTIONS:

1. Welding done in an approved fabricator's shop in accordance with Section II-1-22.07.

2. The special inspector need not be continuously present during welding of the following items, provided the materials, qualifications of welding procedures and welders are verified prior to the start of work; periodic inspections are made of work in progress; and a visual inspection of all welds is made prior to completion or prior to shipment of shop welding:

- 2.1 Single-pass fillet welds not exceed 5/16 inch (7.9 mm) in size.
- 2.2 Floor and roof deck welding.
- 2.3 Welded studs when used for structural diaphragm or composite systems.
- 2.4 Welded sheet steel for cold-formed steel framing members such as studs and joists.
- 2.5 Welding of stairs and railing systems.

- B. **Special moment-resisting steel frames.** During the welding of special moment-resisting steel frames. In addition to Section II-1-22.01(5) requirements, non-destructive testing as required by Section 1703 of the Uniform Building Code.

- C. **Welding of reinforcing steel.** During the welding of reinforcing steel.

EXCEPTIONS: The special inspector need not be continuously present during the welding of ASTM A 706 reinforcing steel not larger than No. 5 bars used for embedments, provided the materials, qualifications of welding procedures and welders are verified prior to the start of work; periodic inspections are made of work in progress; and a visual inspection of all welds is made prior to completion or prior to shipment of shop welding.

6. **HIGH-STRENGTH BOLTING:** As required by Section 1701.5, Item 6, of the Building Code.

7. **STRUCTURAL MASONRY:**

- a. For masonry, other than fully grouted open-end hollow-unit masonry, during preparation and taking of any required prisms or test specimens, placing of all masonry units, placement of reinforcement, inspection of grout space, immediately prior to closing of cleanouts, and during all grouting operations.

EXCEPTIONS: For hollow-unit masonry where the $f'm$ is no more than 1,500 psi (10.3 MPa) for concrete units or 2,600 psi (17.9 MPa) for clay

units, special inspection may be performed as required for fully grouted open-end hollow-unit masonry specified in Item b below.

- b. For fully grouted open-end hollow-unit masonry during preparation and taking of any required prisms or test specimens, at the start of laying units, after the placement of reinforcing steel, grout space prior to each grouting operation, and during all grouting operations.

EXCEPTIONS: Special inspection as required in subsections a and b above, need not be provided when design stresses have been adjusted, as specified in Chapter 21 of the California Building Code, to permit non-continuous inspection.

- c. For open-end hollow masonry units where cleanouts are provided at the bottom course of every grout pour at each vertical bar, special inspection for placing of units may be performed on a periodic basis in accordance with Section II-1-22.06.

- 8. **REINFORCED GYPSUM CONCRETE:** When cast-in-place Class B gypsum concrete is being mixed and placed.

- 9. **INSULATING CONCRETE FILL:** During the application of insulating concrete fill when used as part of a structural system.

EXCEPTION: The special inspections may be limited to an initial inspection to check the deck surface and placement of reinforcing. The special inspector shall supervise the preparation of compression test specimens during this initial inspection.

- 10. **SPRAY-APPLIED FIRE-RESISTIVE MATERIALS:** As required by UBC Standard No. 7-6.

- 11. **PILING, DRILLED PIERS AND CAISSONS:** During driving and testing of piles and construction of cast-in-place drilled piles or caissons. See Item Nos. 1 and 4 for concrete and reinforcing steel inspection.

- 12. **SHOTCRETE:** During the taking of test specimens and placing of all shotcrete and as required by Sections 1924.10 and 1924.11 of the Uniform Building Code.

EXCEPTION: Shotcrete work fully supported on earth, minor repairs and when in the opinion of the building official, no special hazard exists.

- 13. **SPECIAL GRADING, EXCAVATION AND FILLING:** During earth-work excavations, grading and filling operations inspection to satisfy requirements of

Chapter 33 and Appendix Chapter 33 of the Building Code and the Grading and Excavation Ordinance of the City of Milpitas.

14. **SMOKE-CONTROL SYSTEM:**

- a. During erection of ductwork and prior to concealment for the purposes of leakage testing and recording of device location.
- b. Prior to occupancy and after sufficient completion for the purposes of pressure difference testing, flow measurements, and detection and control verification.

15. **SPECIAL CASES:** Work which, in the opinion of the Chief Building Official, involves unusual hazards or conditions.

II-1-22.02 **Special Inspector:** The special inspector shall be a qualified person who shall demonstrate his competence, to the satisfaction of the Chief Building Official, for inspection of the particular type of construction or operation requiring special inspection.

II-1-22.03 **Duties and Responsibilities of the Special Inspector:**

1. The special inspector shall observe the work assigned for conformance with the approved design drawings and specifications.
2. The special inspector shall furnish inspection reports to the Chief Building Official, the engineer or architect of record, and other designated persons. All discrepancies shall be brought to the immediate attention of the contractor for correction, then, if uncorrected, to the Chief Building Official and to the proper design authority.
3. The special inspector shall submit a final signed report stating whether the work requiring special inspection was, to the best of his knowledge, in conformance with the approved plans and specifications and the applicable workmanship provision of these codes.

II-1-22.04 **Waiver of Special Inspection:** The Chief Building Official may waive the requirement for the employment of a special inspector if he finds that the construction is of minor nature.

II-1-22.05 **Continuous Special Inspection:** Continuous special inspection means that the special inspector is on the site at all times observing the work requiring special inspection.

II-1-22.06 **Periodic Special Inspection:** Some inspections may be made on a periodic basis and satisfy the requirements of continuous inspection, provided this periodic scheduled

inspection is performed as outlined in the project plans and specifications and approved by the Chief Building Official.

II-1-22.07 **Approved Fabricators:** Special inspections required by this section and elsewhere in this Title or the technical codes shall not be required where the work is done on the premises of a fabricator registered and approved by the Chief Building Official to perform such work without special inspection. The certificate of registration shall be subject to revocation by the Chief Building Official if it is found that any work done pursuant to the approval is in violation of the technical codes. The approved fabricator shall submit a Certificate of Compliance that the work was performed in accordance with the approved plans and specifications to the Chief Building Official and to the engineer or architect of record. The approved fabricator's qualifications shall be contingent on compliance with the following:

1. The fabricator has developed and submitted a detailed fabrication procedural manual reflecting key quality control procedures which will provide a basis for inspection control of workmanship and the fabricator plant.
2. Verification of the fabricator's quality control capabilities, plant and personnel as outlined in the fabrication procedural manual shall be by an approved inspection or quality control agency.
3. Periodic plant inspections shall be conducted by an approved inspection or quality control agency to monitor the effectiveness of the quality control program.
4. It shall be the responsibility of the inspection or quality control agency to notify the approving authority in writing of any change to the procedural manual. Any fabricator approval may be revoked for just cause. Reapproval of the fabricator shall be contingent on compliance with quality control procedures during the past year.

SECTION 23 STRUCTURAL OBSERVATION

II-1-23.01 **Structural Observation** shall be provided in Seismic Zone No. 3 or 4 when one of the following conditions exists:

1. The structure is defined in Table No. 16-K as Occupancy Category I, II or III of the Uniform Building Code, or
2. The structure is required to comply with Section 403 of the Uniform Building Code, or

3. The structure is in Seismic Zone 4, N_a as set forth in Table 16-S of the Uniform Building Code is greater than one, and a lateral design is required for the entire structure, or

EXCEPTION: One- and two-story Group R, Division 3 and Group U Occupancies and one- and two-story Groups B, F, M, and S Occupancies.

4. When so designated by the architect or engineer of record, or
5. When such observation is specifically required by the Chief Building Official.
The owner shall employ the engineer or architect responsible for the structural design, or another engineer or architect designated by the engineer or architect responsible for the structural design, to perform structural observation as defined in Section I-1-4.01(22). Observed deficiencies shall be reported in writing to the owner's representative, contractor and the building official. The structural observer shall submit a statement in writing to the building official stating that the site visits have been made and identifying and reported deficiencies which, to the best of the structural observer's knowledge, have not been resolved.

SECTION 24 CONNECTION TO UTILITIES

- II-1-24.01 **Energy Connections:** No person shall make connections from a source of energy, fuel or power to any building service equipment which is regulated by the technical codes and for which a permit is required by this Title, until approved by the Chief Building Official.
- II-1-24.02 **Temporary Connections:** The Chief Building Official may authorize the temporary connection of the building service equipment to the source of energy, fuel or power for the purpose of testing building service equipment, or for use under a temporary Certificate of Occupancy.

SECTION 25 CERTIFICATE OF OCCUPANCY

- II-1-25.01 **Use or Occupancy:** Buildings or structures shall not be used or occupied nor shall a change in the existing occupancy classification of a building or structure or portion thereof be made until the Chief Building Official has issued a Certificate of Occupancy therefore as provided herein.

EXCEPTION: Group R, Division 3, and U Occupancies

Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

Certificates presuming to give authority to violate or cancel the provisions of this Title or of other ordinances of the jurisdiction shall not be valid.

If a portion of any building does not conform to the requirements of this Code for a proposed occupancy, that portion shall be made to conform. The Chief Building Official may issue a new Certificate of Occupancy without stating therein that all of the requirements of the Code have been made and without requiring compliance with all such requirements if he finds that the change in occupancy will result in no increased hazard to life or limb, health, property or public welfare.

When application is made for such Certificate of Occupancy, the Chief Building Official shall cause an inspection of the building to be made. The Chief Building Official shall advise the applicant of any alterations necessary.

Before any application for such Certificate of Occupancy is accepted, a fee as set forth in the fee schedule shall be paid by the applicant to cover the cost to the City of the inspection of the building. Such fee shall be in addition to the business licensee fee required by Chapter I, Title III of the Milpitas Municipal Code.

II-1-25.02 **Change in Use:** Changes in the character or use of a building shall not be made except as specified in the California Building Code.

II-1-25.03 **Certificate Issued:** After the Chief Building Official inspects the building or structure and finds no violations of the provisions of this code or other laws which are enforced by the code enforcement agency, the Chief Building Official shall issue a Certificate of Occupancy which shall contain the following:

1. The building permit number.
2. The address of the building.
3. The name and address of the owner.
4. A description of that portion of the building for which the certificate is issued.
5. A statement that the described portion of the building has been inspected for compliance with the requirements of this code for the group and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the Chief Building Official.

II-1-25.04 **Temporary Certificate:** If the Chief Building Official finds that no substantial hazard will result from occupancy of any building or portion thereof before the same is completed, he may issue a temporary Certificate of Occupancy for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure.

- II-1-25.05 **Posting:** The Certificate of Occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Chief Building Official.
- II-1-25.06 **Revocation:** The Chief Building Official may, in writing, suspend or revoke a Certificate of Occupancy issued under the provisions of this code whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this Title.

SECTION 26 NOTICE OF CODE VIOLATIONS

- II-1-26.01 **Notice of Code Violation.** Whenever the Chief Building Official has knowledge of a violation of the provisions of any Chapter of Title II of the Milpitas Municipal Code or any of the California Codes or appendices incorporated in any of the Chapters of said Title (including but not limited to the California Building Code, the California Building Code Standards, the California Electrical Code, the California Mechanical Code, the California Plumbing Code and the Uniform Swimming Pool, Spa and Hot Tub Code), or the provisions of Chapter 300, Title V of the Milpitas Municipal Code, or of the California Fire Code, Uniform Fire Code Appendices and Uniform Fire Code Standards adopted therein, or of any of the provisions of Chapter 302, Title V of the Milpitas Municipal Code (regulating hazardous materials), the Chief Building Official may give a Notice of Intent to record a Notice of Code Violation to the owner of the land upon which the violation is located. Notice shall be given by posting on the property itself and by personal service or by certified mail, postage prepaid and return receipt requested to the owner at the address shown on the latest equalized assessment roll of the County of Santa Clara, California, or as is known to the City Manager of the City of Milpitas.

Notice by mail may also be given (but shall not be required to be given) to any other owner of any interest in said land as may be known to the Chief Building Official. The notice shall state that within twenty (20) days of the date of notice, the owner may request a hearing with the Chief Building Official to present evidence that a violation does not exist.

- II-1-26.02 **Recordation of Violation.** Following a hearing and after consideration of the evidence presented, if the Chief Building Official determines that a code violation in fact exists, the Chief Building Official shall give notice either by personal service or by certified mail, postage prepaid and return receipt requested, to the owner at the address shown on the latest equalized assessment roll of the County of Santa Clara, California, or as is known to the City Manager of the City of Milpitas that if the violation is not corrected within 45 days of the date of personal service or mailing or within such time as deemed appropriate by the Chief Building Official, the Chief Building Official shall record a Notice of Code Violation in the Office of the County Recorder of Santa Clara County, California. Unless an appeal from the Chief Building Official's decision is filed with the

City Manager, as hereafter provided, the Chief Building Official shall record said notice of code violation after 45 days.

If no hearing was requested under Section II-1-26.01 and the violation continues, the Chief Building Official shall inform the owner by personal service or certified mail that a notice of code violation shall be recorded with the County Recorder or Santa Clara County in 45 days. Unless presented with proof of complete correction, the Chief Building Official shall record said notice of code violation after 45 days.

- II-1-26.03 **Appeal to City Manager.** If the owner requested a hearing and is dissatisfied with the result, the owner may file a written appeal to the City Manager within 15 days of the date of mailing of the letter from the Chief Building Official referred to in Section II-1-26.02. The appeal shall be made in accordance with Section I-20-5.00 of the Milpitas Municipal Code and shall be heard by the City Manager as hearing officer in accordance with the procedures set forth in Section I-20-3.00 of the Milpitas Municipal Code. In any case involving the interpretation of technical provisions of any of the codes, the City Manager may seek a written report of an expert of the Manager's selection, but shall not be bound by said report. The decision of the City Manager following the close of said hearing may be appealed to the City Council in accordance with Section I-20-5.01. The owner shall be given written notice by mail of the City Manager's decision within sixty (60) days of the hearing. No Notice of Code Violation shall be recorded until thirty (30) days from date of mailing of said decision to give the owner an additional opportunity to correct the violations.

SECTION 27 REPEAL OF CONFLICTING ORDINANCES

- II-1-27.01 Upon adoption of each new Administrative Code, as amended, the previously adopted Administrative Code is superseded in its entirety.

SECTION 28 SEVERABILITY

- II-1-28.01 The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said chapter hereby adopted shall remain in full force and effect.

SECTION 29 EFFECTIVE DATE

- II-1-29.01 This ordinance shall become effective on November 1, 2002